

## Exhibit 5

Inserted language underlined;

Deleted language in [brackets].

### NYSE MKT COMPANY GUIDE

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## **PART 8. Corporate Governance Requirements (§§801-~~809~~810)**

### **Sec. 801. GENERAL**

In addition to the quantitative listing standards set forth in Part 1, this Part 8 specifies certain corporate governance listing standards. These standards apply to all listed companies, subject to the exceptions set forth below, to the extent not inconsistent with Rule 10A-3 under the Securities Exchange Act of 1934. [However, notwithstanding these exceptions, each listed company must provide prompt notification to the Exchange after an executive officer of the listed company becomes aware of any material non-compliance by the listed company with the applicable requirements specified or referenced in Part 8. Any notification required pursuant to this Part 8 should be provided to the Exchange's Listing Qualifications Department at (212) 306-1331 (telephone), (212) 306-5325 (facsimile).]

- (a) **Controlled Companies**—A company in which over 50% of the voting power is held by an individual, a group or another company (a "controlled company") is not required to comply with Sections 802(a), 804 or 805. A controlled company that chooses to take advantage of any or all of these exceptions must disclose in its annual meeting proxy statement (or in its next annual report on SEC Form 10-K or equivalent if the issuer does not file an annual proxy statement) that it is a controlled company and the basis for that determination.
- (b) **Limited Partnerships and Companies in Bankruptcy**—Limited partnerships and companies in bankruptcy are not required to comply with Sections 802(a), 804 or 805.\*
- (c) **Other entities**—Part 8 is not applicable to asset-backed issuers and other passive business organizations (such as royalty trusts) or to derivatives and special purpose securities listed pursuant to Exchange Rules 1000, and 1200 and Sections 106, 107 and 118B. However, issuers of such securities are required to comply with Section 803 to the extent required by Rule 10A-3 under the Securities Exchange Act of 1934, and the issuer must also comply with Sections 810(b) and 810(c).
- (d) **Registered Management Investment Companies**—Management investment companies that are registered under the Investment Company Act of 1940 (including closed-end funds and open-end funds) are subject to extensive federal regulation. Accordingly, closed-end funds are not required to comply with the requirements in Part 8 other than

Sections 802(e) [and], 803B(1) and the other provisions of Section 803 to the extent required under Rule 10A-3 under the Securities Exchange Act of 1934, and are also required to comply with Section 810. Open-end funds listed pursuant to Exchange Rule 1000A are required to comply with Section 803 to the extent required by Rule 10A-3 under the Securities Exchange Act of 1934, and are also required to comply with Sections 802(e) and 810. Both closed-end funds and open-end funds are required to comply with the provision in Section 803B([5]4) requiring audit committees for investment companies to establish procedures for the confidential, anonymous submission of concerns regarding questionable accounting or auditing matters by employees of the investment adviser, administrator, principal underwriter, or any other provider of accounting related services for the investment company, as well as employees of the investment company.

- (e) Business development companies, which are a type of closed-end management investment company defined in Section 2(a)(48) of the Investment Company Act of 1940, that are not registered under that Act, are subject to all corporate governance requirements.
- (f) Foreign Issuers—See Section 110. While foreign issuers may receive exemptions from certain provisions of this Part 8 pursuant to Section 110, all foreign issuers are nonetheless required to comply with Section 810.
- (g) Preferred and debt listings—Companies listing only preferred or debt securities on the Exchange (including cooperative entities that are structured to comply with relevant state law and federal tax law and do not have a publicly traded class of common stock) are only required to comply with Sections 803 to the extent required by Rule 10A-3 under the Securities Exchange Act of 1934 and the issuer must also comply with Sections 810(b) and 810(c).

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## **Sec. 802. BOARD OF DIRECTORS**

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- (b) If an issuer fails to comply with the board independence composition requirement due to one vacancy, or if one director ceases to be independent due to circumstances beyond his or her reasonable control, the issuer shall regain compliance with the requirement by the earlier of its next annual shareholders' meeting or one year from the occurrence of the event that caused the failure to comply with this requirement; provided, however, that if the annual shareholders' meeting occurs no later than 180 days following the event that caused the failure to comply with this requirement, the issuer shall instead have 180 days from such event to regain compliance. [A listed issuer must notify the Exchange promptly after an executive officer of the issuer becomes aware of any material noncompliance by the listed issuer with the requirements of paragraph (a). See Section 801.]

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## Sec. 803. INDEPENDENT DIRECTORS AND AUDIT COMMITTEE

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### B. Audit Committee

#### (1) Charter

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- (b) the audit committee's responsibility for ensuring its receipt from the outside auditors of a formal written statement delineating all relationships between the auditor and the issuer, consistent with [Independence Standards Board Standard 1] The Public Company Accounting Oversight Board Rule 3526, and the audit committee's responsibility for actively engaging in a dialogue with the auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditor and for taking, or recommending that the full board take, appropriate action to oversee the independence of the outside auditor;

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## Sec. 810. WRITTEN AFFIRMATIONS

(a) Each listed company CEO must certify to the Exchange each year that he or she is not aware of any violation by the listed company of Exchange corporate governance listing standards, qualifying the certification to the extent necessary. A blank copy of the CEO certification form required by this Section 810(a) will be posted on the Exchange's website.

Commentary: The CEO's annual certification regarding the Exchange's corporate governance listing standards will focus the CEO and senior management on the listed company's compliance with the listing standards.

(b) Each listed company CEO must promptly notify the Exchange in writing after any executive officer of the listed company becomes aware of any non-compliance with any applicable provisions of this Part 8.

(c) Each listed company must submit an executed written affirmation of compliance with Part 8 of the Company Guide annually to the Exchange. In addition, each listed company must promptly submit an interim written affirmation after becoming aware of any noncompliance with Part 8 of the Company Guide or in the event of any change in the composition of its board of directors or the audit, compensation or nominating committees thereof. If the interim written affirmation relates to noncompliance with Part 8 of the Company Guide and is being submitted to the Exchange to satisfy the notice requirement of Section 810(b), it must be signed by the

company's CEO. Blank copies of the affirmation forms mentioned in this Section 810(c) will be posted on the Exchange's website.

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